CONTRACTS

COMNAVMETOCCOM-

OVERVIEW OF CONTRACTING

- Formation
- Comparison with commercial and business practices
- Administration
- Fiscal law

COMNAVMETOCCOM-

AUTHORITY TO CONTRACT

- Authority of government agency
- Authority of personnel
- Methods of contract formation

AUTHORITY OF GOVERNMENT AGENCY

- Constitution
- Statutory
- Regulatory

AUTHORITY OF PERSONNEL

- Contracting officer
- Actual authority
- Apparent authority
- Express authority
- Implied authority
- Emergencies

METHODS OF CONTRACT FORMATION

- Express contracts
- Implied contracts
- Oral contracts

TYPES OF CONTRACTS

- Price
  - Fixed Price
  - Cost Reimbursement
- Quantity or time of delivery
  - Indefinite Quantity
    - Requirements

CONTRACT SPECIFICATIONS

- Types of specifications • Design • Performance • Purchase description
- Source of specifications · IHO S-44 • NOAA/NIMA samples

CONTRACT METHODS

- Small purchase
- Sealed bidding
- Negotiations

FUNDING

- Government authorizes funds each year in Appropriation Acts
  - Some in general categories
  - Some specific
  - Some prohibitions

FUNDING RESTRICTIONS

- Time
- Purpose
- Amount

CONTRACT CHANGES

- Since contract is with a sovereign entity, the government is allowed to make changes without the consent of the vendor under certain rules.

CONTRACT CHANGES

- Commercial law
- Unilateral change
- Bi-lateral change

DISPUTES AND REMEDIES

- Termination of contracts - if government terminates contract, contractor has right to recover damages to include some lost profits
  - Termination for convenience
  - Termination for default
  - Excuses

CLAIMS

- Either party can request a change to the contract
- Remedies Directive
- Certificate of Good Procurement Practice

COPYRIGHT PROTECTION ON HYDROGRAPHIC DATABASES

COMNAVMETOCCOM-

DEFINITION

- Form of intellectual property that protects the expression of idea, fact, thought, concept or method

- Does not protect the idea (patent), fact, thought, concept or method (patent)

COPYRIGHT PROTECTION

- HOW - copyright protection is the legal protection
- WHAT - the original work
- WHO - the author

COPYRIGHT ON HYDROGRAPHIC DATA

- Source of Law
  - Berne Convention (1971)
    - WIPO Treaty (1996)
      - EU Directive
      - National Laws

COPYRIGHT

- Name for a monopoly
- Owner of a copyright (author) has a bundle of exclusive rights for a limited period of time

REQUIREMENTS

- Work of Authorship
- Original
- Fixed in a tangible medium

OWNERSHIP OF COPYRIGHT

- Author(s) who created database (If group - interest is joint)
- Employer owns copyright created by employee(s)
- Company might own copyright created by contractor

RIGHTS OF COPYRIGHT HOLDER

- Reproduction Right
- Right to create derivative work
- Right to distribute

GOVERNMENT OWNERSHIP OF COPYRIGHT

- US - NOAA/NIMA chart is not protected by US law
- UK - Crown Copyright protects UK charts and charts of most commonwealth countries
- EU - Most countries claim copyright in government charts

EU COPYRIGHT DIRECTIVES

- 91/250 - Computer Programs
- 92/100 - Rightholder issues
- 93/98 - Duration of Copyrights (70 years)
- 96/9 - Databases
- Proposed Directive on Copyright

DATABASE - US DEFINITION

- Collection of works, whether literary, artistic, musical or other, or of other material such as texts, sounds, images, numbers, facts, data or combinations of any of these...
- ASCII databases include on-line databases as well as real-time information services

COPYRIGHT PROTECTION ON DATABASES

- Databases are literary works
- Databases are “electronic” compilations
- Compilation - work formed by the collection & assembling of pre-existing materials or data that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship
- Protection may not cover contents of database (depths, shape of island, long/lat of wreck)

OTHER DATABASE PROTECTIONS

- Patents - algorithms; software patent
- Trademarks - name & symbol of HO (raster charts) - product name (DNC) - “seeds”
- Trade secrets - software source code
- Licensing Agreements - Use of master database
- Non-disclosure agreements

EU DIRECTIVE ON DATABASES (96/9/EC)

- Protects databases in any form
- Database - Collection of independent works, data or other materials arranged in a systematic or methodical way and individually accessible by electronic or other means
- Does not cover computer programs (See EU Directive 91/250)
- Includes electronic databases stored in ASCII, CD-ROM, CD-I and videotext services

USE OF DATABASE

- User may extract or re-use in substantial part
- May request compulsory license at fair price if publicly generated or financial data is used

MISCELLANEOUS PROVISIONS

- Term - 15 years (US - 50 years)
  (UK - Crown 125 years)

- Coverage - databases created by residents of EU states and corp who have offices within community